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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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20995	7590	06/24/2005	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP			BARRETT, SUZANNE LALE DINO	
2040 MAIN STREET			ART UNIT	
FOURTEENTH FLOOR			PAPER NUMBER	
IRVINE, CA 92614			3676	

DATE MAILED: 06/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/789,630

Applicant(s)

TREMPALA, DOHN J.

Examiner

Suzanne Dino Barrett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 April 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7, 15-17 and 24-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 31 is/are allowed.
- 6) ☒ Claim(s) 1-7, 15-17, 24-30, 32-34, 36, 38 is/are rejected.
- 7) ☒ Claim(s) 35 and 37 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/7/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3,32-34,36,38 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hoshino 5,419,650. Hoshino teaches a plug 21 and face plate 32 assembly for a pipe end 50 comprising a threaded actuator 70 having a configured head and attached to a tapered spreader member 41 which expands the plug member 21 into frictional engagement with the pipe walls 50 when locked. The plug comprises a front surface (at 51a in Fig.3), rear surface (at 21a in Fig.2), side surface (at 21a in Fig.1) and a slot 22 (fig.1) extending longitudinally between the front and rear and radially between the side and a relief opening (at 24 inside the plug) and further, wherein the inside of the plug forms a channel therethrough (coextensive with the surface 23 in Fig.1) and radially displaced from the relief opening (tapered portion 24), which receives a spreader member 41 and the actuator 70. With respect to new claim 32, the channel coextensive with surface 23 in Fig. 1 is clearly radially displaced from the relief opening

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(taper portion 24). With respect to new claim 33, the intended use of the device on a "fire department connection locking cap" is not accorded patentable weight since no additional structure is disclosed which would distinguish from the prior art locking cap and key and, therefor, the prior art key would be capable of being used on any cap having the claimed structure.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoshino '650 in view of Borenstein '771. Hoshino teaches a plug member on a locking cap but fails to specify the material used. Borenstein et al teach, in col. 4, line 65, the use of brass among other suitable materials for a plug lock member. It would have been obvious to one of ordinary skill in the art to modify the material of Hoshino by providing brass as taught by Borenstein et al as an obvious matter of design choice.

5. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoshino '650 in view of Segal '110. Segal teaches the use of a bolt head 17 (Fig. 6) comprising at least 7 apexes and 8 wavy grooves actuated by a similarly configured key head. It would have been obvious to one of ordinary skill in the art to modify the bolt

head 22 of Hoshino by providing a configured head and accompanying key head as taught by Segal to enhance the security of the lock.

6. Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoshino '650 in view of Drach '193. Drach teaches a lock cap face plate having two spaced pin members 24,26 which are received in pin apertures 56,58 on a key member. It would have been obvious to one of ordinary skill in the art to change the key configuration of the face plate 32 of Hoshino by providing pin members as taught by Drach since they are recognized art related equivalents.

7. Claims 24-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strauch et al 5,704,261. Strauch et al teach a key/tool member 3 comprising a handle shaft 4, defining a deformation zone without a relief cut which, upon torqueing of the tool beyond a predetermined amount, deforms plastically (col. 4, lines 10-24; claims 10,12). It would have been obvious to one of ordinary skill in the art to utilize such a tool/key as taught by Strauch et al, on a locking cap actuator such as that previously discussed with respect to Hoshino.

8. Claims 24,29 are further rejected under 35 U.S.C. 103(a) as being unpatentable over Stehling '501 in view of Strauch et al '261. Stehling teaches a key member having a hole portion (at 40) which is capable of receiving a key ring. It would have been obvious to one of ordinary skill in the art to modify the key of Stehling by providing a deformation zone as taught by Strauch et al as an obvious matter of design choice in enhancing the security of the lock cap.

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9. Claims 24,30 are further rejected under 35 U.S.C. 103(a) as being unpatentable over Borenstein '771 in view of Patterson '831. Borenstein et al teach a key member comprising a T-shaped cross member configuration at one end (49/66) with a hole 66 disposed in one cross member. It would have been obvious to one of ordinary skill in the art to modify the key of Borenstein et al by providing a deformation zone as taught by Strauch et al as an obvious matter of design choice in enhancing the security of the lock cap.

***Allowable Subject Matter***

10. Claim 31 is allowed.

The new limitation in claim 31 requiring the channel to be disposed between the slot and the relief opening defines over Hoshino which clearly teaches the channel (portion coextensive with surface 23 in Fig.1) radially disposed after the slot 22 and relief opening (tapered portion 24).

11. Claims 35,37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The slot of Hoshino does not extend through "two sides" of the channel as set forth in claim 35 and further, does not teach that the face plate and plug are secured by fasteners (plural), since Hoshino teaches that they are secured only by the fastener 70.

***Response to Arguments***

12. Applicant's arguments filed 9/27/04 have been fully considered but they are not persuasive. The new matter rejection has been withdrawn in view of Applicant's persuasive arguments. Thus, with respect to claims 24-30, the Patterson rejection is withdrawn and a new rejection set forth as discussed above.

With respect to Hoshino, initially it is noted that Applicant's drawing indicating the Examiner's interpretation of structure is accurate. Hoshino clearly teaches in Figure 1, a small tapered portion 24 at the front or upper surface of the plug which is being used to satisfy the relief opening structure, and a straight channel through the plug, coextensive from the inner surface 23 (i.e. a plane extending from the surface 23 straight through the plug and therefor, disposed radially inward of the tapered portion 24) to satisfy the channel structure. It is noted that the claims do not require that the relief opening extend completely through the plug, therefore the small tapered portion 24 of Hoshino satisfies this limitation. Furthermore, Applicant's arguments on page 8 of the remarks, with respect to the recitation that either the spreader or channel have a tapered portion to expand the plug, are not persuasive since, as shown in Fig. 6 of Hoshino, the spreader 40 has a taper which engages the channel surface coextensive with portion 23, to spread the plug. Contrary to applicant's arguments in lines 1-3 of page 9, Fig. 6 of Hoshino clearly shows a portion of the spreader taper engaging the vertical wall portion 23 of the channel to spread the plug. With respect to applicant's arguments regarding the Drach reference, it is maintained that since the Hoshino face plate 32 is integral with the plug 21, providing pins on the face plate as taught by Drach

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would obviously provide them on the plug which is integral therewith. Accordingly, claims 1-7,15-17,24-30,32,33-34,36,38 stand rejected.

**Conclusion**

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note the key of Trempala D472,434.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suzanne Dino Barrett whose telephone number is 571-272-7053. The examiner can normally be reached on M-Th 8:30-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Suzanne Dino Barrett  
Primary Examiner  
Art Unit 3676

sdb